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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,075	06/07/2002	Frank Poma	10539.4801	3897

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/064,075

Applicant(s)

POMA ET AL.

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-33 is/are allowed.
- 6) ☒ Claim(s) 1,2,6,10-14 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 3-5,7,8 and 15-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed 2/4/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material that is not supported by the original disclosure is as follows: there is no support in the specification for the rod member being welded to the footer. The specification details that the rod member is inserted into an opening formed in the footing wherein grout is disposed. As a matter of fact the only welding performed in the specification is of weld plates 40 and 42. Until further clarification, the claims have been examined according to the specification wherein the grout attaches the rod member to the footing. Applicant is required to cancel the new matter in the reply to this Office Action.

Specification

The disclosure is objected to because of the following informalities: page 7, "fa c ades" should be --facades--. Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: In claim 24, there is no support in the specification for the method of placing pins adjacent to the panels. The specification details placing inserts; however, there is no support for the placement of "pins".

Claim Rejections - 35 USC # 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3,5 and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,244,005 to WALLIN. WALLIN discloses the use of a concrete panel (1) including a means (30) for securing the panel (1) to a footer (9,21), a plurality of centrally located columnar supports (4,5) having means (7,8,38) for reinforcing the supports (4,5), a means (38) for reinforcing the supports (4,5) wherein the means (38) is a rod that is received in a pre-drilled void formed in the footer to allow for attachment to the footer (9,21), and the means (7,8) facilitate placement of the panels (1) in cooperative connection with the supports (4,5), column 4, lines 10-12, and wherein the means (6) terminate in a straight ended rod member (24). Regarding claim 2, the means for reinforcing (4,5) includes a plurality of reinforcing bars. In reference to claim 9, the panel (1) also includes a plate (30A) disposed on the left and right sides of the panel (1), see figure 21.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,244,005 to WALLIN. WALLIN discloses the basic claimed panel

except for explicitly detailing the type and size of reinforcing bar, except for detailing the specifics of the location of the means for facilitating, and except for detailing the size of his panel. In reference to claim 6, although WALLIN is silent with regards to the exact position of the facilitating means, it too would have been an obvious matter of desired choice to locate the facilitating means at a positions which provide the panel with the optimum or most effective result of facilitating placement of the panels. In reference to claim 11, WALLIN is again silent in regards to the size of his panels.

However, the size of the panel is also an obvious matter of desired choice that is suitable for the use intended.

Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,244,005 to WALLIN in view of US Patent #5,491,948 to HARRIS. As detailed above, WALLIN discloses the basic claimed panel except for panels being chamfered and except for the use of spacers between adjacent panels. HARRIS teaches the use of spacers (12) disposed between two panels (10) wherein the panels (10) are chamfered (34). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide adjacent panels of WALLIN with the chamfered edges and spacers of HARRIS in order to seal a formed wall against infiltration effectively form an airtight wall.

Claims 12 and 13 stand rejected and claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,244,005 to WALLIN in view of US Patent #5,491,948 to HARRIS. WALLIN discloses the method for building a tilt-up wall structure including the steps of forming a first/second panel (1) including a plurality of

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reinforcing bars (4,5) and reinforcing bar extensions (7,8,38); providing a footer (9) having holes (11); filling holes (11) with grout (25) and placing each panel (1) on the footer (9) such that the extensions (38) extend into pre-drilled voids formed in the footer (9). WALLIN discloses the basic claimed tilt-up structure except for the panel edges being chamfered. HARRIS teaches that it is known in the art to chamfer (34) the edges of adjacent concrete panels. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to chamfer the edges of the concrete panel of WALLIN as taught by HARRIS in order to facilitate an easier placement and connection of adjacent panels. In reference to claim 13, neither WALLIN or HARRIS discloses the use of shims. However shims are old and very well known in the art of building up wall structures. Thus it would have been obvious to one having ordinary skill in the art to provide the method of placing shims between the footer and panel in order to maintain a sure and aligned placement of the panel prior to actual placement of the panel upon the footer. Regarding claim 14, although WALLIN is silent with regards to the grout (25) being displaced upon insertion of the extension member (38) into the void formed in the footer (9), it would have been obvious to one having ordinary skill in the art at the time the invention was known that due to the weight of the panel itself, the grout will be displaced.

Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,956,912 to CARTER et al. CARTER et al. discloses the use of a columnar insert (800,900) including a faceted portion (844,944) and (842,942), an inner arm (816,916) and an outer T-shaped form (colored red) opposite the inner arm (816,916)

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for positioning between two adjacent pre-cast tilt-up panels (403,404). Regarding claims 21-23, the faceted portion (844,944) and (842,942); inner arm (816,916) and T-shape form (colored red) are all hollow (830,930), see the marked attachment from the previous Official Action. CARTER discloses the basic claimed columnar insert except for the insert being located between panels when at least one panel already being erected. Regarding the "at least one panel being erected", this is a method step. The method of forming a device is not germane to the issue of patentability of the device itself. It is the final product that is given patentable weight in apparatus claims. Thus, the method of forming a device does not differentiate a claimed apparatus from a prior art device satisfying all of the claimed structural limitations.

Allowable Subject Matter

Claims 3-5 and 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-19 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-28 remain as being allowed.

Claims 29-33 are allowed.

R sponds to Arguments

Applicant's arguments with respect to claims 1-28 have been considered but are moot in-part in view of the revised ground(s) of rejection as detailed above.

Applicant's arguments filed 2/04/04 have been fully considered but they are not persuasive. In regards to the applicant's argument that WALLIN does not detail a means plus function for attaching a rod member to a footing, clearly all of the means as defined by the examiner perform the desired or required function as noted in the claims. Regarding the applicant's argument that the means reinforcing being a rod member, clearly (38) of WALLIN is a rod member also insertable into grout disposed in the footing.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YMH

May 3, 2004

